

# **Exhibit**

**16**

EDWINA E. DOWELL, #149059  
Assistant U.S. Trustee  
NANETTE DUMAS, #148261  
SHANNON L. MOUNGER-LUM, #208071  
Office of the United States Trustee  
280 S. First Street, Suite 268  
San Jose, CA 95113-0002  
Telephone: (408) 535-5525  
Fax: (408) 535-5532

Attorneys for Sara L. Kistler  
Acting United States Trustee for Region 17

**UNITED STATES BANKRUPTCY COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

In re:

SONICBLUE, INCORPORATED, a Delaware  
Corporation, DIAMOND MULTIMEDIA  
SYSTEMS, INC., a Delaware Corporation,  
REPLAY TV, INC., a Delaware Corporation,  
and SENSORY SCIENCE CORPORATION,  
a Delaware Corporation,

Debtors.

Case No. 03-51775 MM

Chapter 11

Date: June 14, 2007

Time: 1:30 p.m.

Place: Courtroom 3070

**REPLY BY UNITED STATES TRUSTEE TO**  
**OBJECTION TO TRUSTEE'S PROPOSED COUNSEL**

\_\_\_\_ The United States Trustee (the "UST") hereby submits this reply to the Objection  
To Trustee's Proposed Counsel (the "Objection") filed by York Credit Opportunities  
Fund, L.P. ("York").

York appeared in this case on June 7, 2007 by filing its notice of assignment of  
claim and the Objection, approximately thirty (30) days after the Court had set the  
deadline for objections to the employment applications of proposed counsel by chapter  
11 trustee Dennis Connolly (the "Trustee"), and seven (7) days after the court-ordered  
deadline to object had expired.

The sole basis for the Objection is York's belief that the Trustee, an attorney, has

Reply By UST To Objection  
To Trustee's Proposed Counsel

1 violated local custom and practice by retaining Alston & Bird ("A&B") as his general  
2 counsel. Mr. Connolly is a partner and the head of A&B's Bankruptcy, Workouts and  
3 Reorganization department. However, the Bankruptcy Code specifically provides that a  
4 trustee may act as attorney for the estate, where, as here, it is in the best interest of the  
5 estate. 11 U.S.C. Section 327(d).

6 The legal standard for the employment of professional persons by a trustee is  
7 set forth in Section 327(a), which provides in pertinent part:

8 [T]he trustee, with the court's approval, may employ . . . attorneys . . . that do not  
9 hold or represent an interest adverse to the estate, and that are disinterested  
persons, to represent or assist the trustee in carrying out his duties under this  
title.

10 11 U.S.C. Section 327(a) (Thomson West 2007).

11 Neither York nor any other party has alleged that A&B has a disqualifying interest  
12 adverse to the estate, or that A&B is not disinterested. Thus, the employment of A&B  
13 fully comports with Sections 327(a) and (d) of the Code, and the UST is not aware of  
14 any contravening statute, bankruptcy rule, local rule, published or unpublished case,  
15 Court guideline or UST guideline that would prohibit the Trustee from retaining A&B.  
16 Moreover, as York itself concedes, a party's choice of counsel is ordinarily entitled to  
17 substantial deference. See, e.g., In re Valley-Vulcan Mold Co., 237 B.R. 322, 337 (6<sup>th</sup>  
18 Cir. B.A.P. 1999), aff'd., 5 Fed. Appx. 396 (6<sup>th</sup> Cir. 2001). That deference should be  
19 applied here. York's objection to the employment of A&B, based solely on unwritten  
20 and largely inapposite local custom, should be overruled. Similarly, York's objection to  
21 the employment of the Friedman, Dumas & Springwater as the Trustee's local counsel,  
22 based on the notion that the San Francisco firm is not "local" enough, should also be  
23 overruled.

24 Finally, York states that the Trustee and A&B are "feeding from the same  
25 trough," impliedly accusing the Trustee of churning attorneys' fees for the mutual  
26 benefit of himself and his firm (Objection, n. 6). However, Section 330 (a) of title 11,  
27

1 requiring Court approval for both trustee and professional fees after a noticed hearing,  
2 operates as a vital and important check in the bankruptcy system. This is a high profile  
3 case in which Trustee's words and actions are already subject to microscopic scrutiny.  
4 It is a virtual certainty that the Court, the UST, and the various energized creditor  
5 constituencies will be taking a hard look at the Trustee's administrative fees and costs,  
6 and that they will continue to do so until this case is concluded.

7 Based on the foregoing, the Objection To Trustee's Proposed Counsel should be  
8 overruled.

9 Dated: June 12, 2007

Respectfully submitted,

10 /s/ Nanette Dumas

11 Nanette Dumas  
12 Attorney for United States Trustee  
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EDWINA E. DOWELL, #149059  
 Assistant U.S. Trustee  
 NANETTE DUMAS, #148261  
 SHANNON L. MOUNGER-LUM, #208071  
 Office of the United States Trustee  
 280 S. First Street, Suite 268  
 San Jose, CA 95113-0002  
 Telephone: (408) 535-5525  
 Fax: (408) 535-5532

Attorneys for Sara L. Kistler  
 Acting United States Trustee for Region 17

UNITED STATES BANKRUPTCY COURT  
 NORTHERN DISTRICT OF CALIFORNIA

In re:

SONICBLUE, INCORPORATED, a Delaware  
 Corporation, DIAMOND MULTIMEDIA  
 SYSTEMS, INC., a Delaware Corporation,  
 REPLAY TV, INC., a Delaware Corporation,  
 and SENSORY SCIENCE CORPORATION,  
 a Delaware Corporation,  
 Debtors

Case No. 03-51775 MM

Chapter 11

Date: March 19, 2007  
 Time: 10:30 a.m.  
 Place: Courtroom 3070

**CERTIFICATE OF SERVICE**

I, the undersigned, state that I am employed in the City of San Jose, County of Santa Clara, State of California, in the Office of the United States Trustee, at whose direction the service was made; that I am over the age of eighteen years and not a party to the within action; that my business address is 280 South First Street, Suite 268, San Jose, California 95113, that on the date set forth below, I served a copy of the following:

**REPLY BY UNITED STATES TRUSTEE TO  
 OBJECTION TO TRUSTEE'S PROPOSED COUNSEL**

by the following means to the persons listed below:

☒ ECF System. See attached Notice of Electronic Filing.

☒ United States mail, at San Jose, California, addressed to each party listed below:

Dennis J. Connolly, Trustee  
 Alston & Bird LLP  
 One Atlantic Center  
 1201 West Peachtree Street  
 Atlanta, Georgia 30309-3424

Cecily Dumas  
 Friedman Dumas & Springwater LLP  
 150 Spear Street, Suite 1600  
 San Francisco, CA 94105

	Grant Stein Alston & Bird LLP One Atlantic Center 1201 West Peachtree Street Atlanta, Georgia 30309-3424
Marcus Smith SONICblue, Inc. 7 West 41st Avenue, #74 San Mateo, CA 94403	Michael St. James St. James Law 155 Montgomery St. #1004 San Francisco, CA 94104

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Jose, California, on June 12, 2007.

By: /s/ Patricia M. Vargas  
Patricia M. Vargas  
Paralegal Specialist

Certificate of Service

# **Exhibit**

**17**

Michael St. James, CSB No. 95653  
ST. JAMES LAW, P.C.  
155 Montgomery Street, Suite 1004  
San Francisco, California 94104  
(415) 391-7566 Telephone  
(415) 391-7568 Facsimile  
michael@stjames-law.com

Counsel for York Credit Opportunities Fund, L.P.

**UNITED STATES BANKRUPTCY COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**

In re	)	Case No. 03-51775 through 03-51778
	)	Chapter 11
SONICBLUE INCORPORATED et al.	)	DATE: June 14, 2007
Debtor.	)	TIME: 10:30 a.m.
	)	JUDGE: Hon. Marilyn Morgan

**SUPPLEMENTAL OBJECTION TO TRUSTEE'S PROPOSED COUNSEL**



1 In his Reply, the Trustee complains that “York did not address or cite to the case law in the  
2 area;” Reply, 6:24; and inaccurately suggests that the case law is focused on two very limited concerns:  
3 the Trustee’s inability to scrutinize his counsel’s fees, and the danger that the Trustee will cause counsel  
4 to perform the Trustee’s duties. Reply, 6:3-20. This Supplement is filed to correct that suggestion.  
5

6  
7 Decisional law recognizes that something of critical importance is imperiled when the trustee  
8 hires his own law firm: the trustee’s duties of independence, disinterestedness and loyalty. It is this  
9 ethical concern – not the two pragmatic concerns identified by the Trustee – that drives the case law.

10 [T]he most overriding concern is the appearance of impropriety that arises when an  
11 individual attorney has the dual role of trustee representing the interests of the estate and  
12 attorney representing the financial interests of his or her law firm.

13 Derr & Layden, *Appointing the Trustee’s Own Law Firm – Conflict and Cases*, 13 Oct AM. BANKR.  
14 INST. J. 26 (1994) (noting that, “[a]s a result of these inherent potential conflicts, one would think that an  
15 appropriate circumstance rarely arises in which a trustee could hire his or her firm...”).  
16

17 The resulting rule is straight-forward and well established: “Absent special circumstances a  
18 trustee who is a partner of a law firm ought not seek to retain his law firm to represent him in the  
19 administration of a large bankruptcy matter.” *In re Showcase Jewelry Design, Ltd.*, 166 B.R. 205, 206  
20 (E.D.N.Y 1994), citing *Knapp v. Seligson*, 316 F.2d. 164 (2<sup>nd</sup> Cir. 1966). In *Knapp*, Justice Friendly  
21 explained the reason  
22

23 ‘[s]uch appointments should be the exception and made only when sound special  
24 circumstances justify.’... *The conduct of bankruptcy proceedings not only should be*  
25 *right but must seem right.* Even when litigation is likely to be the trustee’s chief  
26 responsibility, there must always be doubt whether he can make a truly disinterested  
determination that his own firm, no matter what its overall merit, is best qualified to be  
his counsel in the circumstances of the particular case

27 *Knapp*, *supra*, 316. F.2d. at 168 (emphasis supplied).  
28

1 The Second Circuit was more recently called upon to discuss the issue at length *In re Palm*  
2 *Coast, Matanza Shores Limited Partnership*, 101 F.3d 253 (2<sup>nd</sup> Cir. 1996). Its analysis focused on the  
3 law of trusts, noting that it “requires that the trustee *in his role as trustee*, be disinterested and prohibits  
4 him from obtaining interests adverse to the estate. *Palm Coast, supra*, 101 F.3d at 258 (emphasis in  
5 original). The Panel explained this principle in the language of a Supreme Court decision:

7 “Equity tolerates in bankruptcy trustees no interests adverse to the trust. This is not  
8 because such interests are always corrupt, but because they are always corrupting.”  
9 *Mosser v. Darrow*, 341 U.S. 267, 271, 71 S.Ct. 680, 682, 95 L.Ed 927 (1951).

10 *Id.*

11 The Second Circuit therefore concluded:

12 A trustee who hires his own professional firm to assist him cannot be a ‘disinterested  
13 person’ who has no interests adverse to the estate. Once the trustee’s firm is hired by the  
14 estate, the trustee’s personal interests are implicated. At that point, the trustee’s  
15 independence and disinterestedness are compromised by a potential conflict of interest.

16 *Id.* (The Second Circuit acknowledged Section 327(d) as a statutory exception to this broad rule.)

17 Recognizing that the rule is founded in issues of ethics and the importance of the appearance of  
18 propriety to the bankruptcy process, the courts having been sparing in their willingness to apply Section  
19 327(d), noting that “such appointments should be exceptional, and justified by special circumstances”;  
20 *In re Gem Tire & Service Co.*, 117 B.R. 874, 879 (Bkrcty. S.D. Tex. 1990) (holding that “the best  
21 interest of the estate test of §327(d) must be clearly demonstrated” at 878, rejecting employment). The  
22 statutory exception provided by Section 327(d) “must... be severely limited so as to prevent abuse and  
23 the appearance of impropriety.” *In re Butler Industries, Inc.* 101 B.R. 194 (Bkrcty. C.D. Cal. 1989)  
24 (rejecting employment) *aff’d* 114 B.R. 695 (C.D. Cal. 1990), quoting with approval *In re Michigan*  
25 *Interstate Railway Co.*, 32 B.R. 325 (Bkrcty. E.D. Mich. 1983) (rejecting employment).

26 Ordinarily, case law restricts employment of a trustee’s law firm in much the same way that it  
27 has been restricted in this District: to small cases in which the estate might not otherwise be represented  
28 by counsel. *See, In re Interamericas, Ltd.*, 321 B.R. 830, 834 (S.D. Tex. 2005), collecting cases for the

1 proposition that “most relevant authority – including *Butler* – attempts to limit retention of the trustee’s  
2 own firm to small cases.” And see *Knapp, supra*, (rejecting employment of the trustee’s firm as counsel  
3 in “substantial cases”).

4 The only appellate decision on the subject within the Ninth Circuit – the District Court’s decision  
5 in *Butler, supra* – is instructive. The Court noted that it is the Trustee’s burden to show “cause” why the  
6 best interests of the estate are better served by hiring the Trustee’s own firm “as opposed to  
7 representation by an *independent* law firm.” *Butler, supra*, 114 B.R. at 699 (emphasis supplied). There,  
8 as here, the Trustee argued that retention of his own firm would simply “result in a smoother  
9 administration of the estate”; *id.*; an assertion that was found to constitute insufficient “cause.”  
10

11 Rather, the District Court in *Butler*, like other courts and commentators, adopted the Bankruptcy  
12 Court’s identification of four examples of the sort of unusual circumstances that would constitute good  
13 cause to compromise the disinterestedness of the Trustee by permitting him to retain his own law firm as  
14 counsel:  
15

16 1. Where the estate's assets consist principally of causes of action and legal  
17 counsel would have to look to recovery for payment of fees;

18 2. Where there is relatively little legal work to perform and thus it does not merit  
19 the effort and expense of hiring an outside law firm;

20 3. Where a substantial legal action must be taken immediately, and the trustee  
21 cannot wait for completion of the appointment process for outside counsel;

22 4. Where the trustee can demonstrate that such appointment will result in a  
23 substantial reduction of costs to the estate.

24 Derr & Layden, *supra*, 13 Oct AM. BANKR. INST. J. 26; *Butler, supra*, 114 B.R. at 699, n. 1; *Showcase,*  
25 *supra*, 166 B.R. at 207; Phelan & Penn, *Bankruptcy Ethics, An Oxymoron*, 5 AM. BANKR. INST. L. REV.  
26 1, 40-41 (Spring 1997); Kelbon, Herman & Bell, *Conflicts, the Appointment of “Professionals,” and*  
27 *Fiduciary Duties of Major Parties in Chapter 11*, 8 BANKR. DEV. J. 349, 398-400 (1991)  
28

1 Transparently, *none* of those examples provided by *Butler* and supported in the case law are even  
2 remotely applicable here; quite the contrary.

3 In this case, Trustee's counsel can readily anticipate earning a tremendous amount of fees. After  
4 all, counsel for the Debtor in Possession earned \$4 million allowing the case to "languish in chapter 11";  
5 Trustee's Reply, footnote 1, quoting the U.S. Trustee. The Trustee and the U.S. Trustee argue that the  
6 scrutiny that will be present in this case will prevent Trustee's counsel from overbilling. As the District  
7 Court pointed out in *Butler*, "Safeguards against excess fee billing are built into the bankruptcy code.  
8 Those safeguards are irrelevant in this instance, however, because the objective is to avoid the potential  
9 conflict problem, not to remedy the problem once it is encountered." *Butler, supra*, 114 B.R. at 699.  
10

11 More than almost any other case, this case cries out for a *truly* disinterested Trustee, nowhere  
12 more so than in the multi-million dollar selection of the Trustee's counsel. The Court should take to  
13 heart that the Second Circuit's observation that "once the trustee's firm is hired by the estate, the  
14 trustee's personal interests are implicated. At that point, the trustee's independence and disinterestedness  
15 are compromised by a potential conflict of interest."  
16

17 The Trustee's perception that the estate's administration will be smoother if he is permitted to  
18 work with his law partners is a trifling concern to balance against permitting the Trustee, in a case with  
19 this extraordinary past, to commence his administration with his independence and disinterestedness  
20 compromised by this "potential conflict of interest."  
21

22 Respectfully submitted,

23 DATED: June 13, 2007

ST. JAMES LAW, P.C.

24  
25 By: /s/ Michael St. James

Michael St. James

26 Counsel for York Credit Opportunities Fund, L.P.  
27  
28

# **Exhibit**

**18**

1 ROBERT GREENFIELD (039648)  
FRANK A. MEROLA (136934)  
2 K. JOHN SHAFFER (153729)  
GINA NAJOLIA (222067)  
3 STUTMAN, TREISTER & GLATT PC  
1901 Avenue of the Stars, 12<sup>th</sup> Floor  
4 Los Angeles, CA 90067  
Telephone: (310) 228-5600  
5 Facsimile: (310) 228-5788

6 WILLIAM McGRANE (057767)  
BERNARD S. GREENFIELD (066017)  
7 McGRANE GREENFIELD LLP  
One Ferry Building, Suite 220  
8 San Francisco, CA 94111  
Telephone: (415) 283-1776  
9 Facsimile: (415) 283-1777

10 Counsel for SonicBlue Claims, LLC

11 UNITED STATES BANKRUPTCY COURT

12 NORTHERN DISTRICT OF CALIFORNIA

13 SAN JOSE DIVISION

14 In re: 15 16 SONICBLUE INCORPORATED, a Delaware corporation; DIAMOND 17 MULTIMEDIA SYSTEMS, INC., a Delaware corporation; REPLAYTV, INC., 18 a Delaware corporation; and SENSORY SCIENCE CORPORATION, a Delaware 19 corporation, 20 21 Debtors 22 23	Case No. 03-51775  Chapter 11  SONICBLUE CLAIMS, LLC'S RESPONSE TO (1) OBJECTION TO CHAPTER 11 TRUSTEE'S PROPOSED COUNSEL (2) REPLY BY CHAPTER 11 TRUSTEE, AND (3) REPLY BY <u>UNITED STATES TRUSTEE</u>  Date: Thursday, June 14, 2007 Time: 10:30 AM Place: Courtroom 3070, Judge Morgan
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24 In response to (1) the "Objection to the Trustee's Proposed Counsel" filed  
25 by York Credit Opportunities Fund, L.P. (Docket No. 2325) (the "Objection"), (2)  
26 the "Reply Memorandum of Dennis J. Connolly, Chapter 11 Trustee, In Support

1 of Application to Retain Counsel (Docket No.2343) ( the “Chapter 11 Trustee’s  
2 Reply”), and (3) the “Reply by the United States Trustee to Objections to  
3 Trustee’s Proposed Counsel” ( Docket No. 2346) ( the “UST’s Reply),” creditor  
4 SonicBlue Claims, LLC (“SB Claims”) states as follows:

5 SB Claims has no objection to the employment of either Alston & Bird  
6 LLP or Friedman Dumas & Springwater LLP by Chapter 11 Trustee Dennis  
7 Connolly. SB Claims, however, notes that all of the references to “an active,  
8 sophisticated creditor body” in the Chapter 11 Trustee’s Reply at 6:10, and  
9 “various energized creditor constituencies” in the UST’s Reply at 3:4, are used as  
10 justification for allowing the chapter 11 Trustee to hire his own law firm because  
11 presumably other parties in interest would scrutinize the legal fees charged and the  
12 costs incurred by the chapter 11 Trustee’s own law firm. These references ignore  
13 the fact that the US Trustee has not taken any steps to reconstitute the Creditors’  
14 Committee. Instead, SB Claims has been forced to ask the Bankruptcy Court to do  
15 so. See “Motion for Order (1) Directing United States Trustee to Change the  
16 Membership of Official Committee of Creditors Holding Unsecured Claims, or (2)  
17 Directing the Appointment of a New Trade Creditor Committee” (Docket No.  
18 2341) (the “SB Claims’ Committee Motion”). The hearing on the SB Claims’  
19 Committee Motion has been set for August 3, 2007 at 11:00 a.m.

20 If the chapter 11 Trustee is to be afforded the privilege of hiring his own  
21 law firm as his primary counsel, a set of checks and balances in this troubled  
22 bankruptcy case is required, including a Creditors’ Committee that is truly  
23 “active”, “sophisticated,” and “energized,” and given what has transpired in this  
24 case over the last several years, reconstituted. The Bankruptcy Court should  
25 consider taking up both matters—the appointment of Alston & Bird LLP and the  
26 reconstitution of the Creditors’ Committee—at the same time, rather than ruling

1 on them piecemeal. This could best be done by an order *sua sponte* shortening  
2 time with respect to the Committee Motion, and then continuing the hearing  
3 respecting the Objection to that date.

4 DATED: JUNE 13, 2007 STUTMAN TREISTER & GLATT P.C.  
5 and  
6 MCGRANE GREENFIELD LLP

7 By /s/ Robert A. Greenfield  
8 Attorneys for SonicBlue Claims, LLC



# **Exhibit**

**19**

Entered on Docket

June 13, 2007

GLORIA L. FRANKLIN, CLERK

U.S. BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA



Michael St. James, CSB No. 95653  
ST. JAMES LAW, P.C.  
155 Montgomery Street, Suite 1004  
San Francisco, California 94104  
(415) 391-7566 Telephone  
(415) 391-7568 Facsimile  
michael@stjames-law.com

The following constitutes  
the order of the court. Signed June 13, 2007

A handwritten signature in cursive script, appearing to read "Marilyn Morgan".

Marilyn Morgan  
U.S. Bankruptcy Judge

Counsel for York Credit Opportunities Fund, L.P.

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re	)	Case No. 03-51775 through 03-51778
	)	Chapter 11
SONICBLUE INCORPORATED et al.	)	
Debtor.	)	[No Hearing Set]

ORDER GRANTING  
*EX PARTE* APPLICATION TO PERMIT UNTIMELY OBJECTION  
AND TO EXTEND ORAL ARGUMENT

1           Upon consideration of the *ex parte* Application of York Capital Opportunities Fund (hereinafter  
2 “York”) to permit an untimely Objection to the Trustee’s Proposed Counsel and to extend oral argument  
3 thereon and the supporting Declaration, it appearing that the Application is reasonable and appropriate  
4 under the circumstances, and good cause therefor appearing,

5  
6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

7           1.       Under the circumstances, parties in interest have received adequate notice and an  
8 opportunity to be heard.

9           2.       Time be, and it hereby is, extended, such that York’s Objection to Proposed Counsel filed  
10 on June 7, 2007 shall be, and it hereby is treated as timely and will be considered on the merits.

11           3.       York shall be permitted to present its oral argument on the Trustee’s Applications to  
12 Employ Counsel on June 14, 2007 at 10:30 a.m.

13                               \*       \*       \*       END OF ORDER       \*       \*       \*

**Court's Service List**

Dennis J. Connolly, Trustee  
Alston & Bird LLP  
One Atlantic Center  
1201 West Peachtree Street  
Atlanta, Georgia 30309-3424

Grant Stein, Esq.  
Alston & Bird LLP  
One Atlantic Center  
1201 West Peachtree Street  
Atlanta, Georgia 30309-3424

Cecily Dumas, Esq.  
Friedman Dumas & Springwater, LLP  
150 Spear Street, Suite 1600  
San Francisco, CA. 94105

Nanette Dumas, Esq.  
Office of the United States Trustee  
280 S. First Street, Room 268  
San Jose, CA 95113

Michael St. James, Esq.  
ST. JAMES LAW, P.C.  
155 Montgomery Street, Suite 1004  
San Francisco, California 94104

# **Exhibit**

# **20**

Entered on Docket

June 21, 2007

GLORIA L. FRANKLIN, CLERK  
U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

1 FRIEDMAN DUMAS & SPRINGWATER LLP  
2 CECILY A. DUMAS (S.B. NO. 111449)

3 150 Spear Street, Suite 1600  
4 San Francisco, CA 94105  
5 Telephone Number: (415) 834-3800  
6 Facsimile Number: (415) 834-1044

7 ALSTON & BIRD LLP  
8 GRANT T. STEIN  
9 1201 West Peachtree Street  
10 Atlanta, GA 30309  
11 Telephone Number: (404) 881-7000  
12 Facsimile Number: (404) 881-7777  
13 (admitted *pro hac vice*)

14 *Attorneys for Dennis J. Connolly in His Capacity as*  
15 *Chapter 11 Trustee for SONICblue Incorporated, et al.*

16 UNITED STATES BANKRUPTCY COURT  
17  
18 NORTHERN DISTRICT OF CALIFORNIA  
19  
20 SAN JOSE DIVISION

21 In re

22 SONICBLUE INCORPORATED,  
23 a Delaware corporation, DIAMOND  
24 MULTIMEDIA SYSTEMS, INC.,  
25 a Delaware corporation, REPLAYTV,  
26 INC., a Delaware corporation, and  
27 SENSORY SCIENCE CORPORATION,  
28 a Delaware corporation,

Debtors.

Case Nos. 03-51775 through 03-51778

Chapter 11 Cases

Jointly Administered

**FINAL ORDER AUTHORIZING THE  
RETENTION OF ALSTON & BIRD LLP  
AS COUNSEL TO DENNIS J.  
CONNOLLY, THE CHAPTER 11  
TRUSTEE**

Date: June 14, 2007

Time: 1:30 p.m.

Place: 280 South First Street  
San Jose, CA 95113

Judge: Hon. Marilyn Morgan

24 The application filed May 2, 2007 (the "Application") of Dennis J. Connolly,  
25 the Chapter 11 Trustee (the "Trustee") in the above-captioned Chapter 11 bankruptcy cases of  
26 SONICblue Incorporated, Diamond Multimedia Systems, Inc., ReplayTV, Inc., and Sensory  
27 Science Corporation (collectively, the "Debtors"), requesting the authority to employ Alston  
28 & Bird LLP ("A&B") as attorneys for the Trustee in these cases filed pursuant to Chapter 11

of the United States Bankruptcy Code (the "Bankruptcy Code") came on for hearing on June 14, 2007 at 10:30 a.m. and 1:30 p.m. in the above-referenced court. Grant T. Stein, Alston & Bird LLP and Cecily A. Dumas, Friedman Dumas & Springwater LLP appeared on behalf of the Trustee; Michael St. James, St. James Law P.C., appeared on behalf of York Credit Opportunities Fund, L.P. ("York"); Nanette Dumas appeared on behalf of the United States Trustee; other appearances were made as noted in the record of the proceeding. The Court having found that notice of the Application was adequate under the circumstances; and the Court having entered an Interim Order approving the Application on May 8, 2007, and ordered that a hearing be held on June 14, 2007 on final approval of the Application; the Court having considered the Objection to Trustee's Proposed Counsel (the "Objection") filed by York, the Trustee's Reply Memorandum and Declaration of Dennis J. Connolly in support thereof, the Reply of the United States Trustee, York's Supplemental Objection, and the related submissions, and argument of counsel presented at the hearing; the Court having found that (1) A&B does not hold or represent an interest that is adverse to the estate and is disinterested within the meaning of the Bankruptcy Code, and (2) that the retention of A&B by the Trustee is in the best interests of the estates, it is hereby

ORDERED that:

1. The Objection is overruled;
2. The Application is granted; and
3. The Trustee is authorized, pursuant to Sections 327(a) and 327(d) of the Bankruptcy Code, to retain A&B as of April 17, 2007, the date of the Trustee's appointment, as his attorneys in all matters relating to the performance of his duties as the Chapter 11 Trustee in these cases as set forth in the Application.

///

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///

///

FINAL ORDER AUTHORIZING RETENTION  
OF ALSTON & BIRD LLP  
OF ALSTON & BIRD AS COUNSEL

1  
2 APPROVED AS TO FORM:

3  
4 ST. JAMES LAW, P.C.

5  
6 By: 

7 Michael St. James  
8 Counsel for York Credit Opportunities  
Fund, L.P.

9  
10 OFFICE OF THE UNITED STATES TRUSTEE

11  
12 By: \_\_\_\_\_

13 Nanette Dumas  
14 Counsel for the United States Trustee

15  
16 \*\* END OF ORDER \*\*  
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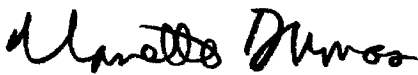


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2 APPROVED AS TO FORM:

3  
4 ST. JAMES LAW, P.C.

5  
6 By: \_\_\_\_\_  
7 Michael St. James  
8 Counsel for York Credit Opportunities  
Fund, L.P.

9  
10 OFFICE OF THE UNITED STATES TRUSTEE

11  
12 By:  \_\_\_\_\_  
13 Nanette Dumas  
14 Counsel for the United States Trustee

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16 \*\* END OF ORDER \*\*  
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28 FINAL ORDER AUTHORIZING RETENTION  
OF ALSTON & BIRD LLP  
OF ALSTON & BIRD AS COUNSEL

COURT SERVIC LIST

Ron Bender, Esq.  
Levene, Neale, Bender, Rankin & Brill L.L.P.  
10250 Constellation Blvd., Suite 1700  
Los Angeles, California 90067

Michael St. James, Esq.  
St. James Law, P.C.  
155 Montgomery Street, Suite 1004  
San Francisco, CA 94104

Office of the U.S. Trustee  
Nanette Dumas, Esq.  
280 South First Street, Room 268  
San Jose, CA 95113